

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1796 of 1986

PURANCHAND B KESHWANI

Versus

COMMERCIAL OFFICER

Appearance:

MR PV NANAVATI for Petitioner

MR JD AJMERA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of Order: 04/10/96

ORAL JUDGMENT

The learned counsel for the respondent raised a preliminary objection that this Special Civil Application is not maintainable as the petitioner has efficacious alternative remedy available in the matter by approaching to the Arbitration under Section 7B of the Telegraphic Act, 1985. The learned counsel for the petitioner contended that it is a case of excess billing of telephone bills and the amount of Rs.3,087/- could not have been demanded. It has further been contended that on the ground of non payment of such amount, the respondent was not justified to proceed to disconnect the telephone. However, the counsel for the petitioner does not dispute that alternative remedy is available to the petitioner in the matter.

2. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties. I do not consider it to be appropriate to go on merits of the matter as the petitioner has alternative remedy in the matter against the alleged excessive demand of telephone bill. The petitioner has already deposited the amount and as such, I consider that in case the petitioner is relegated to alternative remedy, there is no immediate danger of disconnection of telephone for non payment of aforesaid amount. Taking into consideration this fact, this Special Civil Application is disposed of

in terms that the petitioner may avail the alternative remedy available to him under Section 7B of the Telegraphic Act, 1985, within a period of one month from today. However, the application filed by the petitioner shall not be dismissed on the ground of delay in filing of the same or on the question of limitation as the petitioner approached this Court and this petition was pending for all these years. In case ultimately the authority concerned finds that the amount demanded or any part thereof could not have been demanded legally from the petitioner, then necessary orders may be made for adjustment of the said amount for payment of future telephone bills. The authority shall also consider the question, in eventuality of success of the petitioner, to award interest at a reasonable rate. Rule stands disposed of accordingly with no order as to costs.

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(sunil)